

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested of the basis of the remarks and arguments set forth herebelow. No amendments to the application have been made in this paper.

Rejection of Claim 42 Over Sawyer

In the final Office Action, claim 42 was rejected as being anticipated by, or in the alternative, obvious over United States Patent No. 5,108,417 (Sawyer). Claim 42 recites a stent that comprises at least one strut that, in transverse cross section, has substantially flat top and bottom sides that are substantially parallel to each other and by a "smooth rounded" left side and a "smooth rounded" right side. An example of this claimed cross sectional configuration is shown in Applicant's Figure 3B, as reproduced below:

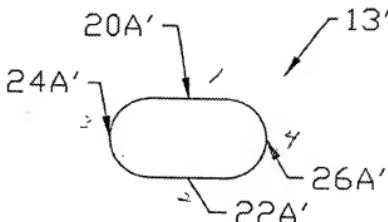
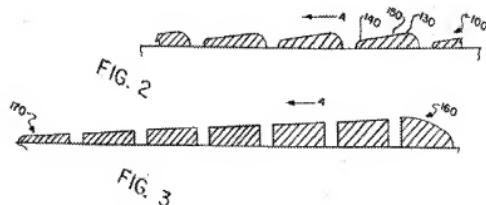


FIGURE 3B

In contrast, Sawyer describes a stent that if formed of a helical "air foil," two examples of which are seen in Sawyer's Figures 2 and 3, reproduced below:



The Examiner contends that the second of the five sections in Sawyer's Figure 2 anticipates claim 42. Applicant disagrees. It is without question that, in transverse cross section, no portion of Sawyer's "air foil" (including all of the sections in Sawyer's Figure 2) has a "smooth rounded right side" and a "smooth rounded left side" as required by claim 42. At most, some but not all corners of Sawyer's "air foil" are rounded, but the sides are most definitely not "smooth" and "rounded" are required by Applicant's Claim 42. Rounded corners are not smooth rounded sides. Moreover, Sawyer contains absolutely nothing that would motivate anyone to modify the cross sectional configuration of his "air foil" to include sides that are both "smooth" and "rounded" as recited in claim 42.

Thus, the stated rejection of claim 42 over Sawyer is not sustainable and should be withdrawn.

Rejection of Claims 20-24, 28, 31, 32 and 36 over Summers in View of Schmaltz et al.

In the final Office Action, claims 20-24, 28, 31, 32 and 36 over United States Patent No. 6,080,191 (Summers) in view of United States Patent No. 5,449,372 (Schmaltz et al.) The Examiner admits in the Office Action (page 3, lines 2-5) that the transverse cross sectional configuration of Summers' stent is shown in Summers' Figure 2 and that it is not "devoid of sharp corners." However, the Examiner contends that the secondary reference (Schmaltz et al.) teaches at col. 15, lines 54-59 that the sharp edges of a stent may be rounded off to prevent blood vessel damage.

However, this reasoning ignores the fact that independent claims 20 and 31 require more than just rounded corners. In fact, Applicants independent claims 20 and 31 specifically require that the top and bottom sides be "joined together through a continuously curved left side and a continuously curved right side such that the transverse cross sectional configuration of the strut is devoid of sharp corners."

In reality, Summers Figure 19A (reproduced below) shows nothing more than a simple rectangular cross section.



FIG. 19A

Even if one were to round off the corners of this simple rectangular cross section, such rounding of the corners would still not result in "a continuously curved left side and a continuously curved right side" as required by independent claims 20 and 31 (and all claims depending therefrom). Indeed, a rounded corner is not a continuously curved side. Moreover, nothing in Summers or Schmaltz et al. even remotely suggests any modification of the stents disclosed therein to include "a continuously curved left side and a continuously curved right side" as required by Applicant's claims.

Thus, claims 20-24, 28, 31, 32 and 36 are not obvious over Summers in view of Schmaltz et al. and withdrawal of this stated rejection is respectfully requested,

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-0221.

Respectfully submitted,

/Catherine C. Maresh, Reg. No. 35,268/
Catherine C. Maresh
Registration No. 35,268
Attorney for Applicant

Medtronic Vascular, Inc.
3576 Unocal Place
Santa Rosa, CA 95403